



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,384	07/01/2003	Manabu Kodate	059695-0103	1185
22428	7590	12/28/2007		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER PIZIALI, JEFFREY J	
			ART UNIT 2629	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/609,384

Examiner

Jeff Piziali

Applicant(s)

KODATE ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 08 February 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.



Continuation of 4(e) Other:

The applicants are thanked for the 'Amendment and Reply Under 37 C.F.R. 1.111' (filed on 8 February 2006). However, a non-compliant amendment has been discovered in the aforementioned response, requiring attention before examination may continue.

MPEP 714(II) requires, "All amendments filed on or after July 30, 2003 must comply with 37 CFR 1.121 as revised in the notice of final rule making published in the Federal Register on June 30, 2003 at 65 Fed. Reg. 38611. The manner of making amendments has been revised to assist in the implementation of beginning-to-end electronic image processing of patent applications. Specifically, changes have been made to facilitate electronic image data capture and processing and streamline the patent application process. If an amendment filed on or after July 30, 2003 does not comply with revised 37 CFR 1.121, the Office will notify applicants via a Notice of Non-Compliant Amendment that the amendment is not accepted."

C.F.R. § 1.121(c)(2) requires, "All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of 'currently amended,' and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived."

The 'Amendment and Reply Under 37 C.F.R. 1.111' (filed on 8 February 2006) improperly adds text to at least one claim without providing markings to indicate the changes (e.g., see Page 7; Claim 14, Lines 1-2 -- wherein "further comprising" text is nonexistent in the originally submitted claim 14).

The applicants are respectfully reminded to use markings to indicate any changes that have been made relative to the immediate prior version of the claims, as required by C.F.R. § 1.121.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent response, yet another Notice of Non-Compliance will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.



Jeff Piziali
17 December 2007